

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JP MORGAN CHASE BANK, N.A.,

Plaintiff,

-against-

LMR CONSTRUCTION LLC, GLOBAL  
MERCHANT CASH, INC. and TVT CAPITAL,  
LLC,

Defendants.

Civil Action No. 1:17-cv-  
7683

**ANSWER WITH  
CROSS-CLAIM**

Defendant, TVT Capital, LLC, by RTR Recovery, LLC and its attorney, Douglas E. Robinson, Esq. as and for its answer to the interpleading complaint of JP Morgan Chase Bank, N.A., (“JPMC” or “Plaintiff”) alleges as follows:

**ANSWER**

1. Admits the allegations in paragraphs: 1, 2, 5, 6, 7, 8, 9, 10, 13, 14, 22, 24, 25, 30, 31, 33.
2. Denies having sufficient knowledge and information to either deny or admit the allegations in paragraph 3, 4, 11, 12, 15, 16, 17, 18, 19, 20, 21, 23, 27, 28, 29, 32.
3. Denies the allegation in paragraph 26 and refers the Court to TVT’s time stamped levy which was served upon JPMC (See ¶13).

**AS AND FOR INTERPLEADED DEFENDANT TVT CAPITAL, LLC’S CROSS-  
CLAIM AGAINST ALL NAMED DEFENDANTS**

4. On March 25, 2016 a judgment by confession was entered by interpleaded defendant TVT Capital, LLC (“TVT”) against interpleaded defendant LMR Construction LLC (“LMR”) and Lonna Bishop in the amount of \$142,370.59 in the Supreme Court of New York,

Westchester County (“TVT Judgment”). A copy of the TVT Judgment is attached as Exhibit A.

5. No monies have been collected pursuant to the TVT Judgment.
6. On August 16, 2016 TVT served a restraining notice upon JPMC with respect to the property of LMR in its possession.
7. On August 22, 2016 New York City Marshal Vadim Barbarovich, on behalf of TVT served JPMC an execution and levy in the amount of \$133,330.30 (the “2016 TVT Levy”) against the property of LMR in JPMC’s possession to satisfy the TVT Judgment. (A copy of the 2016 TVT Levy is attached as Exhibit B).
8. Upon information and belief on or about August 16, 2016 LMR commenced a lawsuit in United States District Court, Eastern District of Kentucky, Lexington Division under Civil Action No.: 16-CV-00337 for an injunction to prevent the funds being held by JPMC from being disbursed to Marshal Barbarovich pursuant to the 2016 Levy. The suit alleged that the LMR accounts being held were not subject to restraint in New York because the LMR accounts were “located” in a Chase branch in Kentucky.
9. In response JPMC filed a motion pursuant to FRCP 12(b)(6) to dismiss for failure to state a claim.
10. LMR’s claims against JPMC were dismissed on or about August 1, 2017. (A copy of the Opinion & Order dated August 1, 2017 of Karen K. Caldwell, Chief Judge USDC Eastern District of Kentucky is attached as Exhibit C).
11. Upon information and belief, interpleaded defendant LMR has filed a Notice of Appeal of the August 1, 2017 decision.

12. To avoid being embroiled in litigation regarding the competing claims of the interpleading defendants, JPMC has commenced this interpleader action.

**RE-SERVICE OF TVT'S LEVY**

13. Because the 2016 TVT Levy had expired,<sup>1</sup> on August 17, 2017, at 9:16 a.m. New York City Marshal Vadim Barbarovich, on behalf of TVT, re-served an execution and levy upon JPMC in the amount of \$144,808.53 against the property of LMR in JPMC's possession to satisfy the TVT Judgment (the "2017 TVT Levy") (a copy of the 2017 TVT Levy with a time stamp showing service upon JPMC at 9:16 a.m. on August 17, 2017 is attached hereto as Exhibit D).
14. As both Global Merchant Cash's earlier levy and the 2016 TVT Levy had expired ninety days after service, and the 2017 TVT Levy was served upon JPMC prior to Global Merchant Cash's alleged re-service, TVT has priority to the interpleaded funds.

**WHEREFORE**, that by reason of the foregoing, the aforesaid sum of \$144,808.53 after any set-off for legal fees by counsel for interpleading plaintiff should be turned over to RTR Capital, LLC as counsel for TVT and for such other relief as this Court deems just.

October 13, 2017

By: \_\_\_\_\_

  
Douglas E. Robinson, Esq.  
RTR RECOVERY, LLC FOR  
TVT CAPITAL, LLC  
122 East 42<sup>nd</sup> Street, Suite 2112  
New York, NY 10168  
drobinson@rtrecoveryllc.com  
Tel: 718.775.3673

---

<sup>1</sup> CPLR §5232(a) dictates that a levy expires 90 days after service of the execution.